

Southern Railway System

Transportation Department

P.O. Box 1808

Washington, D.C. 20013

12963

RECORDATION NO. _____ Filed 1425

P. R. RUDDER
VICE PRESIDENT

FEB 25 1981 - 1 45 PM

February 25, 1981
61122, 58104

INTERSTATE COMMERCE COMMISSION

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Dear Mrs. Mergenovich:

I enclose three original counterparts of the instrument described in paragraph (1) hereof for recordation pursuant to Section 11303 of Title 49, U.S. Code and return, together with two additional counterparts thereof which are for the Commission's files.

In accordance with 49 CFR Part 1116, covering the recordation of documents, I wish to advise as follows:

- (1) The enclosed document is a Lease of certain railroad equipment, more fully described below, from Southern Region Industrial Realty, Inc., Lessor, P.O. Box 1808, Washington, D.C. 20013, to Southern Railway Company, Lessee, P.O. Box 1808, Washington, D.C. 20013, dated as of February 25, 1981.
- (2) The equipment covered by this Agreement is described as follows:
 - 24 B23-7 Diesel-Electric Locomotives, bearing Lessee's road numbers 4000-4023, inclusive, AAR designation B-B;
 - 211 100-ton 3,600 cu. ft. capacity Open Top Hopper Cars, bearing Lessee's road numbers 352162-352372, inclusive, AAR designation HT; and
 - 100 100-ton 53'8" EOC Covered Coil Cars, bearing Lessee's road numbers 62300-62399, inclusive, AAR designation GBSR.

RECEIVED
FEB 25 1 40 PM '81
FEE OPERATION
I.C.C.
920 15TH STREET, N.W.
TEL: (202) 283-4503

1-056A100
Date FEB 25 1981
Fee \$ 50.00
ICC Washington, D. C.

Kimberly G. Stachurski
C. Quinter

Each unit of the Equipment will be marked in letters not less than one-half inch in height as follows:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED WITH THE INTERSTATE COMMERCE COMMISSION."

- (3) After recordation, the original documents should be returned to David R. Willson, General Attorney, Law Department, Southern Railway Company, P.O. Box 1808, Washington, D.C. 20013.
- (4) The recordation fee of \$50.00 is enclosed.

Please acknowledge receipt of these documents on the enclosed copy of this letter.

Very truly yours,


P. R. Rudder

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

2/24/81

OFFICE OF THE SECRETARY

David R. Wilson, Gen. Atty.
Southern Railway Company
P.O.Box 1806, Law Dept.
Washington, D.C. 20013

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **2/25/81** at **1:45pm**, and assigned recordation number(s). **12963**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

Executed in five Counterparts of
which this is Counterpart No. 2

12963
RECORDATION NO. Filed 1425

FFB 25 1981 -1 45 PM

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated as of February 25, 1981, by and between SOUTHERN REGION INDUSTRIAL REALTY, INC., a Georgia corporation (the "Vendor"), and SOUTHERN RAILWAY COMPANY, a Virginia corporation (the "Vendee")

W I T N E S S E T H:

THAT

WHEREAS, Vendee desires to acquire 10 (## 4000-4009) and 14 (## 4010-4023) Diesel-Electric Locomotives, to bear Vendee's road numbers 4000-4023, both inclusive; 211 100-ton 3,600 cu. ft. capacity Open Top Hopper Cars, to bear Vendee's road numbers 352162-352372, both inclusive; and 100 100-ton 53'8" EOC Covered Coil Cars, to bear Vendee's road numbers 62300-62399, both inclusive; all 335 such cars and locomotives being hereinafter collectively called the "Units"; and

WHEREAS, Vendee, by Purchase Orders numbered 141065 and 143393, 144464, and 144466, dated as of January 5, 1981 and January 5, 1981, December 23, 1980, and December 23, 1980, respectively [the Purchase Orders], has contracted with General Electric Company [GE] and GE, Greenville Steel Car Company [Greenville], and Portec, Incorporated [Portec], respectively, to build these Units; and

WHEREAS, the builders of the Units, GE for both groups of the Locomotives, Greenville for the Open Top Hopper Cars, and Portec for the Covered Coil Cars, under the terms of the Purchase Orders, are to deliver the Units to Vendee at Sadieville, Kentucky, Sadieville, Kentucky, Georgetown, Kentucky, and Athens, Georgia, respectively, freight charges, if any, prepaid; and

WHEREAS, inasmuch as Vendee has not yet consummated financing arrangements for the acquisition of the Units, it is not in a position to accept delivery of the Units at this time; and

WHEREAS, Vendee anticipates that the above-described financing arrangements will be consummated on or before August 25, 1981, and Vendee, in order that it may take possession of and use the Units pending completion of such financing arrangements, has requested Vendor to take an assignment of Vendee's rights to receive and purchase these Units under the Purchase Orders, to purchase these Units on delivery, and to give Vendee temporary custody and possession of the Units, solely as a lessee of the Units; and

WHEREAS, Vendor is willing to accept such assignment, and to purchase and lease the Units upon the terms and conditions hereinafter stated;

NOW, THEREFORE, in consideration of the premises and of the promises of the parties herein contained, the parties agree as follows:

1. Vendee hereby assigns to Vendor its rights to receive and purchase the Units under the Purchase Orders and Vendor hereby accepts such assignment and designates the Vendee as its agent to accept delivery of the Units.

2. Vendor agrees to lease the Units to Vendee and Vendee agrees to hire the Units from Vendor at the delivery points above referred to. The rights of Vendee hereunder in respect of each Unit shall commence on the date of acceptance of such Unit as agent for the Vendor and end on the earlier of August 25, 1981, or the date of payment of the purchase price of such Unit under the above financing arrangements. Vendee shall purchase the Units from Vendor or provide a purchaser therefor on or before August 25, 1981, and Vendor shall sell the Units to Vendee or such purchaser as Vendee may provide, at the total purchase prices as set in the Purchase Orders as they relate to the Units, and its obligation so to do shall be absolute, regardless of the condition of the Units at such time. When the purchase price of any Unit has been paid to Vendor, this Agreement shall automatically be terminated with respect to such Unit without further action by or notice to any party concerned. On delivery of each Unit to Vendee, Vendee will assume the responsibility and risk of loss with respect to such Unit.

3. Title to the Units shall remain in Vendor and Vendee's right and interest therein is and shall be solely that of possession, custody, and use as lessee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. Vendee shall do such acts as may be required by law, or reasonably requested by Vendor, for the protection of Vendor's title to and interest in the Units.

4. As rental for the Units, Vendee agrees to pay in cash to Vendor upon the termination of this Agreement the sum of \$1.00.

5. Vendee agrees that it will permit no liens of any kind to attach to the Units, and that it will (a) indemnify and save harmless Vendor from any and all claims, expenses, or liabilities of whatsoever kind, and (b) pay any and all taxes, fines, charges, and penalties that may accrue or be assessed or imposed upon the Units or the Vendor because of its ownership or because of the use, marking, operation, management or handling of the Units by Vendee during the term of this Agreement.

6. Vendee will, at its own expense, keep and maintain the Units in good order and running condition and will, at its option, repair or replace or promptly pay to Vendor the purchase price in cash of those Units which may be damaged or destroyed by any cause during the term that this Agreement applies to such Units.

7. Prior to the delivery of the Units to Vendee there shall be plainly, distinctly, permanently, and conspicuously marked and maintained by the Vendee upon each side of each Unit in letters not less than one-half inch in height the following words:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION.

8. Vendor shall have the right to assign its rights under this Agreement or under the Purchase Orders pursuant to the financing arrangements referred to above.


9. Vendor shall have no obligation to warrant the condition of the Units but agrees to pass to Vendee or Vendee's nominee the builder's warranties and those of any suppliers of components on or for the Units.

10. Vendee shall have the right to assign or transfer its rights hereunder, or to transfer or sublet the Units (subject to this Agreement and the rights of Vendor hereunder, and without releasing Vendee from any of its obligations hereunder) to any affiliate of Vendee.

SOUTHERN REGION INDUSTRIAL
REALTY, INC., and
SOUTHERN RAILWAY COMPANY,
By

L.S.
ATTEST:


Assistant Secretary


Vice President of each of the
above Companies

DISTRICT OF COLUMBIA.

On this 25th day of February, 1981, before me personally appeared to me P. R. Rudder, personally known, who, being by me duly sworn, says that he is a Vice President of SOUTHERN RAILWAY COMPANY and of SOUTHERN REGION INDUSTRIAL REALTY, INC., that the corporate seal of each of said corporations is affixed to the foregoing instrument, that said instrument was signed and sealed on behalf of each of said corporations by authority of its respective Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of each of said corporations.



C. O. WAGNER

Notary Public

In and For the District of Columbia
My Commission Expires May 31, 1982